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FILED
HARRISBURG.

AUG 21 2001

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIAMARY E. DIANDREA,
Per _____ Deputy Clerk

| | | |
|---------------------------|---|---------------------------|
| JEROME SMITH, | : | |
| Plaintiff | : | Civil No. 1:CV-01-1026 |
| v. | : | |
| UNITED STATES OF AMERICA, | : | (Judge Rambo) |
| Defendants | : | (Magistrate Judge Smyser) |

MOTION FOR ENLARGEMENT OF TIME

Pursuant to Fed. R. Civ. P. 6(b), defendant requests the Court for a five-day enlargement of time in which to file its responsive pleading to the complaint. Defendant states the following in support thereof:

1. Plaintiff, Jerome Smith, is an inmate currently incarcerated at the Allenwood Federal Prison Camp in Montgomery, Pennsylvania ("FPC Allenwood").
2. Smith's complaint is a combined Federal Tort Claims Act ("FTCA") and Bivens¹ complaint which names as defendants the United States of America and Federal Bureau of Prisons. Smith's complaint alleges that Smith was subjected to inadequate medical care, deliberate indifference to his serious medical needs and medical negligence generally; that defendants failed to follow

¹ Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971).

recommendations in violation of Bureau of Prisons ("BOP") policy; and that defendants failed to provide treatment, leaving surgery as a "last option." Smith requests declaratory judgment, \$250,000.00 in compensatory damages against each defendant and punitive damages twice the amount of compensatory damages requested.

3. A sixty-day summons was issued by the Clerk of Court on June 18, 2001, and the individual defendants were served by certified mail on June 19, 2001.

4. By order of July 10, 2001, Smith's Bivens claims were dismissed and Smith's FTCA claim against the BOP was dismissed, and the BOP was removed as a defendant. Defendant's answer to the remaining FTCA claim against the United States is presently due August 23, 2001.

5. Because of undersigned counsel's involvement in other litigation matters, and because the paralegal assigned to this case was out of the office for training from August 13, 2001, until August 20, 2001, counsel for defendant has been unable to complete his responsive pleading. The Assistant U.S. Attorney assigned to this case is currently out of town and will not return to the office until August 24, 2001.

6. Thus, on behalf of defendant, the undersigned requests an enlargement of time of five days within which to file its responsive pleading.

7. Defendants submit that Smith will not be prejudiced by this enlargement of time.

WHEREFORE, defendant request a five-day enlargement of time until August 28, 2001, in which to file its responsive pleading. Counsel certifies that he has not sought the concurrence of plaintiff because plaintiff is a prisoner proceeding pro se.
M.D. Pa. Local Rule 7.1.

Respectfully submitted,

MARTIN C. CARLSON
United States Attorney



MARK E. MORRISON
Assistant U.S. Attorney

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P.O. Box 11754
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Dated: August 21, 2001

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

JEROME SMITH, :
Plaintiff : Civil No. 1:CV-01-1026
v. :
: (Judge Rambo)
UNITED STATES OF AMERICA, : (Magistrate Judge Smyser)
Defendants :
:

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

That on August 21, 2001, she served a copy of the attached

MOTION FOR ENLARGEMENT OF TIME

by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania.

Addressee:

Jerome Smith
Reg. No. 19145-018
FPC Allenwood
P.O. Box 1000
Montgomery, PA 17752



ANITA L. LIGHTNER
Paralegal Specialist